

C 07 4381

U.S. District Court Northern California**ECF Registration Information Handout**

The case you are participating in has been designated for this court's Electronic Case Filing (ECF) Program, pursuant to Civil Local Rule 5-4 and General Order 45. This means that you must (check off the boxes when done):

- 1) **Serve** this ECF Registration Information Handout on **all** parties in the case along with the complaint, or for removals, the removal notice. DO NOT serve the efiler application form, just this handout.
- Each attorney representing a party must also:
- 2) **Register** to become an efiler by filling out the efiler application form. Follow ALL the instructions on the form carefully. If you are already registered in this district, do not register again, your registration is valid for life on all ECF cases in this district.
- 3) **Email** (do not efile) the complaint and, for removals, the removal notice and all attachments, in PDF format within ten business days, following the instructions below. You do not need to wait for your registration to be completed to email the court.
- 4) Access dockets and documents using **PACER** (Public Access to Court Electronic Records). If your firm already has a PACER account, please use that - it is not necessary to have an individual account. PACER registration is free. If you need to establish or check on an account, visit: <http://pacer.psc.uscourts.gov> or call **(800) 676-6856**.

BY SIGNING AND SUBMITTING TO THE COURT A REQUEST FOR AN ECF USER ID AND PASSWORD, YOU CONSENT TO ENTRY OF YOUR E-MAIL ADDRESS INTO THE COURT'S ELECTRONIC SERVICE REGISTRY FOR ELECTRONIC SERVICE ON YOU OF ALL E-FILED PAPERS, PURSUANT TO RULES 77 and 5(b)(2)(D) (eff. 12.1.01) OF THE FEDERAL RULES OF CIVIL PROCEDURE.

All subsequent papers submitted by attorneys in this case shall be filed electronically. Unrepresented litigants must file and serve in paper form, unless prior leave to file electronically is obtained from the assigned judge.

ECF registration forms, interactive tutorials and complete instructions for efilng may be found on the ECF website: <http://ecf.cand.uscourts.gov>

Submitting Initiating Documents

PDF versions of all the initiating documents originally submitted to the court (Complaint or Notice of Removal, exhibits, etc.) must be **emailed (not efiled)** to the **PDF email box for the presiding judge** (not the referring judge, if there is one) **within 10 (ten) business days** of the opening of your case. For a complete list of the email addresses, please go to: <http://ecf.cand.uscourts.gov> and click on **[Judges]**.

You must include the case number and judge's initials in the subject line of all relevant emails to the court. You do not need to wait for your registration to email these documents.

These documents must be emailed instead of e-filed to prevent duplicate entries in the ECF system. All other documents must be e-filed from then on. You do not need to efile or email the Civil Cover Sheet, Summons, or any documents issued by the court at case opening; note that you do need to efile the Summons Returned.

Converting Documents to PDF

Conversion of a word processing document to a PDF file is required before any documents may be submitted to the Court's electronic filing system. Instructions for creating PDF files can be found at the ECF web site: <http://ecf.cand.uscourts.gov>, and click on **[FAQ]**.

Email Guidelines: When sending an email to the court, the subject line of the email **must** contain the **case number, judge's initials** and the **type of document(s)** you are sending, and/or the topic of the email.

Examples: The examples below assume your case number is 03-09999 before the Honorable Charles R. Breyer:

Type of Document	Email Subject Line Text
Complaint Only	03-09999 CRB Complaint
Complaint and Notice of Related Case	03-09999 CRB Complaint, Related Case
Complaint and Motion for Temporary Restraining Order	03-09999 CRB Complaint, TRO

Questions

Almost all questions can be answered in our **FAQs** at
<http://ecf.cand.uscourts.gov>, please check them first.

You may also email the ECF Help Desk at ECFhelpdesk@cand.uscourts.gov or
call the toll-free ECF Help Desk number at: (866) 638-7829.

The ECF Help Desk is staffed Mondays through Fridays from
9:00am to 4:00pm Pacific time, excluding court holidays.

United States District Court

NORTHERN DISTRICT OF CALIFORNIA

Jessica Marquez Caparaz
Plaintiff

SUMMONS IN A CIVIL CASE

CASE NUMBER: C 07-04381 SC

V.

TO: (Name and address of defendant)

Michael B. Mukasey
Attorney General / USDOJ
950 Pennsylvania Avenue NW
Washington, DC 20530-0001

David Still
Director (SFO) / USCIS
630 Sansome Street
San Francisco, CA 94111

Joseph Nagle
DHS Officer (SFO) / USCIS
630 Sansome Street
San Francisco, CA 94111

Michael Chertoff
Secretary / USDHSS
3801 Nebraska Avenue NW
Washington, DC 20528

Robin Barrett
Section Chief (SFO) / USCIS
630 Sansome Street
San Francisco, CA 94111

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Iraj Shahrok, Esq.
Law Offices of Iraj Shahrok
572 Ralston Avenue
Belmont, California 94002

an answer to the complaint which is herewith served upon you, within 90 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

Richard W. Wieking

CLERK

DATE February 1, 2008

(BY) DEPUTY CLERK

RETURN OF SERVICE

DATE

Service of the Summons and Complaint was made by me ¹

Name of SERVER

TITLE

Check one box below to indicate appropriate method of service

Served Personally upon the Defendant. Place where served:

Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left:

Returned unexecuted:

Other (specify):

STATEMENT OF SERVICE FEES

TRAVEL SERVICES TOTAL

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____

Date

Signature of Server

Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure

IRAJ SHAHROK, ESQ. (CSB #49776)

572 Ralston Avenue

Belmont, CA 94002

(650) 591-9604

(650) 591-6076 (Fax)

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
450 Golden Gate Avenue, San Francisco, CA 94102**

JESSICA MARQUEZ CAPARAZ,)

Plaintiff,)

)

v.)

)

Case No. C 07-04381 SC

MICHAEL B. MUKASEY,)

Attorney General of the United States;)

MICHAEL CHERTOFF, Secretary,)

Department of Homeland Security;)

DAVID STILL, Director, San Francisco)

Office, U.S. Citizenship and Immigration)

Services;)

ROBIN BARRETT, Section Chief,)

U.S. Citizenship and Immigration Services;)

JOSEPH NAGLE, DHS Officer,)

)

Defendants.)

COMPLAINT FOR WRIT OF MANDAMUS

TO THE HONORABLE JUDGES OF SAID COURT:

Plaintiff, through undersigned counsel, alleges as follows:

INTRODUCTION

1) REQUEST COURT CONFER U.S. CITIZENSHIP

This is a civil action brought pursuant to 8 U.S.C. § 1447, 28 U.S.C. §1331 and 1361,

5 U.S.C. §701 and 28 U.S.C. §2201 *et. seq.* to redress the deprivation of rights, privileges and

immunities secured to Plaintiff to compel Defendants to perform a duty Defendants owe to Plaintiff. Jurisdiction is also conferred by 5 U.S.C. §704.

2) **REQUEST DEFENDANTS BE COMPELLED TO MAKE DECISION**

This action is brought to compel Defendants and those acting under them to take action on a Form N-400, Application for Naturalization, (hereafter “the Application”) in order for Plaintiff to become a Naturalized Citizen of the United States. The Application was filed with the former Immigration and Naturalization Service’s San Francisco District Office on or about November 30, 2005 by **JESSICA M. CAPARAZ**. She was interviewed by Immigration Officer **JOSEPH NAGLE** on April 11, 2006 and successfully passed the English language and history and government tests. (**See EXHIBIT – 1) Form N-652, Naturalization Interview, for proof of successful passage of both tests.** To this day, over one year and ten months after the interview, **JESSICA M. CAPARAZ still AWAITS THE DECISION**. Certainly more than 120 days have passed since the interview in this matter, thus vesting jurisdiction with this court under 8 U.S.C. § 1447.

- 3) **Plaintiff is eligible to have her Application adjudicated.**
- 4) **Defendants, the Department of Homeland Security and U.S. Citizenship and Immigration Services (USCIS), are charged by law with the statutory obligation to adjudicate this Application.**
- 5) **Venue is proper under 28 USC §1391(e) because the Plaintiff resides in this district and no real property is involved in this action.**

FACTS

- 6) **JESSICA M. CAPARAZ is a long term resident of the San Francisco Bay Area.**

She received her Permanent Resident status as a result of her 10 years marriage to

ISAURO V. CAPARAZ. (See EXHIBIT – 2) copy of JESSICA M. CAPARAZ'S Resident Alien Card, front and back.

- 7) **JESSICA M. CAPARAZ'S Permanent Resident Status was granted on February 23, 1990** (See EXHIBIT - 2), and she became statutorily eligible to file a Form N-400, Application for Naturalization, on February 23, 1993, three years after grant of Permanent Resident Status. She is a citizen of the Philippines and wishes to travel abroad on an American Passport with its greater security.
- 8) **JESSICA M. CAPARAZ filed her Form N-400, Application for Naturalization, with the former Immigration and Naturalization Service's San Francisco District Office on or about November 30, 2005.**
- 9) **JESSICA M. CAPARAZ was interviewed by Immigration Officer JOSEPH NAGEL on April 11, 2006 and successfully passed the English language and history and government tests.** (See EXHIBIT – 1) Form N-652, Naturalization Interview, for proof of successful passage of both tests). To this day, over one year and ten months after the interview, **JESSICA M. CAPARAZ still AWAITS THE DECISION** as to whether her application has been approved. (See EXHIBIT – 5) Declaration of Jessica M. Caparaz in **Support of Complaint for Writ of Mandamus.**
- 10) **San Francisco District office of the Citizenship & Immigration Services is currently processing Forms N-400 filed January 2007.** JESSICA M. CAPARAZ'S application was filed in November 2006 and, therefore, the final processing and decision is overdue.
- 11) **JESSICA M. CAPARAZ has inquired about her Application a number of times, but the Service has neither provided a reason for the delay, nor adjudicated the Application.** Attached are (two) Status Inquiry Form letters dated April 5, 2007 as (EXHIBIT – 3) and May 16, 2007 (EXHIBIT – 4) letter from the **Law Offices of IRAJ SHAHROK**

inquiring about the status of **JESSICA M. CAPARAZ'S** Application. Attached is **(EXHIBIT – 1)** a copy of the DHS standard response to the inquiry, dated **April 11, 2006**, stating that **JESSICA M. CAPARAZ** will be “notified by mail when further action has been taken” in her case.

12) **Under DHS policy, the fingerprints are only valid for fifteen months.**

If an application requiring fingerprints is not adjudicated within the fifteen-month time frame, the fingerprints expire and must be taken again. **More than fifteen months have passed** since the date when **JESSICA M. CAPARAZ** was last fingerprinted, and USCIS's failure to adjudicate her Application in a timely manner will result in the need to schedule a new fingerprint appointment, further delaying the processing of the Application.

PLAINTIFF'S CLAIMS AS FOLLOWS:

13) **Defendants have willfully and unreasonably** have delayed in and have refused to adjudicate the Application, thereby depriving the Plaintiff of the benefit of becoming a Naturalized U.S. Citizen.

14. **Defendants owe Plaintiff a duty to adjudicate the Petition** but have unreasonably failed to perform that duty.

15) **Plaintiff has exhausted any administrative remedies that may exist.**

WHEREFORE, Plaintiff prays that the Court:

16) **Assume jurisdiction** over the case and naturalize the Plaintiff under the terms of 8 USC 1447(b); or

17) **Compel Defendants** and those acting under them to perform their duty to adjudicate the Petition; and

- 18) **Grant such other and further relief** as this Court deems proper under the circumstances;
and
- 19) **Grant Attorney's fees and costs of Court** to Plaintiff under the Equal Access to Justice Act in the amount of \$1,500.00 for 10 hours of inquiry and research at \$150.00 per hour.

Respectfully submitted this 1st day of February, 2008.

IRAJ SHAHROK
Attorney for Jessica M. CAPARAZ
A# 42-432-428

LIST OF EXHIBITS:

EXHIBIT – 1	Form N-652 Naturalization Interview Results (4/11/2006)
EXHIBIT – 2	Copy of Jessica M. Caparaz's LPR Card (front and back)
EXHIBIT – 3	Inquiry Letter of Iraj Shahrok, Esq. (4/05/2007)
EXHIBIT – 4	Inquiry Letter of Iraj Shahrok, Esq. (5/16/2007)
EXHIBIT – 5	Declaration of Jessica M. Caparaz in Support of Complaint for Writ of Mandamus

U.S. Department of Justice
Immigration and Naturalization Service

Naturalization Interview Results

A#: A 042 432 428

On APR 11 2006, you were interviewed by INS officer JOSEPH NAGLE

- You passed the tests of English and U.S. history and government.
- You passed the test of U.S. history and government and the English language requirement was waived.
- The Service has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.
- You will be given another opportunity to be tested on your ability to _____ speak / _____ read / _____ write English.
- You will be given another opportunity to be tested on your knowledge of U.S. history and government.
- Please follow the instructions on the Form N-14.
- INS will send you a written decision about your application.
- You did not pass the second and final test of your _____ English ability / _____ knowledge of U.S. history and government. You will not be rescheduled for another interview for this N-400. INS will send you a written decision about your application.

A) Congratulations! Your application has been recommended for approval. At this time, it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.

B) A decision cannot yet be made about your application.

It is very important that you:

- ✓ Notify INS if you change your address.
- ✓ Come to any scheduled interview.
- ✓ Submit all requested documents.
- ✓ Send any questions about this application in writing to the officer named above. Include your full name, A-number, and a copy of this paper.
- ✓ Go to any oath ceremony that you are scheduled to attend.
- ✓ Notify INS as soon as possible in writing if you cannot come to any scheduled interview or oath ceremony. Include a copy of this paper and a copy of the scheduling notice.

EXHIBIT 1



EXHIBIT 2

E-mail to: CSC-XII.400@dhs.gov

April 5, 2007

**RE: JESSICA M. CAPARAZ
A# 42-432-428
N-400 Naturalization Applic.**

Dear USCIS Officer:

It is respectfully requested for the status of Jessica's N-400 application be clarified. She has already passed the tests in English and U.S. history and government. She was interviewed on 4/11/2006 by INS officer Joseph Nagle. We have not received any updates or notices for almost a year. A copy of the Naturalization Interview Results is attached for your reference. If further documentation is required, please advise.

Thank you for your courtesy and cooperation in this matter.

Very truly yours,

IRAJ SHAHROK, ESQ.

IS: jcm
Encl.: Copy of Naturalization Interview Results
C.C. to Jessica Caparaz

EXHIBIT 3

Law Offices
IRAJ SHAHROK
ATTORNEY AT LAW

572 RALSTON AVENUE
BELMONT, CALIFORNIA 94002
TELEPHONE: (650) 591-9604
FAX: (650) 591-6076

May 16, 2007

U.S. Department of Homeland Security

Attn: N-400 Unit

P.O. Box 10400

Laguna Niguel, CA 92607-1040

RE: N-400 Application: **JESSICA MARQUEZ CASTANEDA**
A# 42-432-428

REQUEST FOR IMMEDIATE DECISION

Dear US-DHS Officer:

This is to request an immediate decision on the U.S. Citizenship Application of Jessica Castaneda which was filed on 11/30/2005. She was interviewed and passed the English, History and Government Exams on 04/11/2006. The attached interview results note indicates that "a decision cannot be made about your application."

This response is unacceptable and I ask that WITHIN 30 DAYS you give an affirmative decision in her case or we will just set the case before the Federal District Court to present our case to the District Court Judge who then will have jurisdiction.

Jessica Castaneda has been a resident since 1990 and she wishes to obtain U.S. Citizenship at this time without any delay. Please conclude the application process of Jessica Castaneda and set it for the final Citizenship Swearing-In Ceremony without the necessity of my taking the case to the District Court which we are in the process of doing. However, as a courtesy to you I am asking you to grant her the citizenship. If I have to go that route I will be also be asking for Attorney's Fees and costs.

Thank you for your courtesy and cooperation in this matter.

Very truly yours,

Irav Shahrok

IRAJ SHAHROK

IS:las

Encl: Copy of U.S. Immigration and Naturalization (Naturalization Interview Results) notice of 04/11/2006.

EXHIBIT 4

**DECLARATION OF PLAINTIFF JESSICA M. CAPARAZ
IN SUPPORT OF COMPLAINT FOR WRIT OF MANDAMUS**

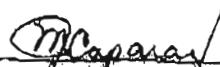
Civil Action No. A# 42-432-428

I, JESSICA M. CAPARAZ, Plaintiff in the above-entitled Mandamus Proceedings declare:

- 1) That I have been a permanent resident of the United States since 2/23/1990. I received my LPR card through my husband ISAURO CAPARAZ. We were married for 10 years and have since divorced on 12/16/1998.
- 2) That on or about 11/30/2005, I filed an Application for Naturalization (N-400) to become a citizen of the United States. On 4/11/2006, I successfully passed the English Language and History and Government Tests. A copy of the government notification to me is enclosed as **EXHIBIT -1** by OFFICER JOSEPH NAGLE on 4/11/2006.
- 3) Since then, I have sent two letters by myself and my attorney IRAJ SHAHROK, ESQ. has sent two letters of inquiry and we have not received any response from the US-DHS Citizenship Department. I am very frustrated. I would like to travel on a U.S. Passport as I will feel safer then.
- 4) I respectfully request this Court to grant me my citizenship so that I may apply for a U.S. Passport. I wish to become a proud citizen of the United States.

I declare under penalty of perjury under the Laws of the State of California that the foregoing is true and correct. Executed in Belmont, California on 8/03/2007,

Respectfully submitted:


JESSICA M. CAPARAZ

PROOF OF SERVICE

On **February 1, 2008**, I served the attached:

- ***SUMMONS IN A CIVIL CASE AND COMPLAINT FOR WRIT OF MANDAMUS***
on the parties in said action by placing a true copy thereof as indicated below as follows:

JUDGE WILLIAM H. ALSUP

(via ECF)

United States District Court
Northern California
450 Golden Gate Avenue
San Francisco, CA 94102

EDWARD A. OLSEN (Defendant/s)

(via ECF/Fedex)

Assistant United States Attorney
450 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102

JOSEPH NAGLE

(via Fedex/Overnight)

DHS Officer (SFO) / USCIS
630 Sansome Street
San Francisco, CA 94111

MICHAEL B. MUKASEY

(via Fedex/Overnight)

Attorney General / USDOJ
950 Pennsylvania Avenue NW
Washington, DC 20530-0001

MICHAEL CHERTOFF

(via Fedex/Overnight)

Secretary / USDHS
3801 Nebraska Avenue NW
Washington, DC 20528

DAVID STILL

(via Fedex/Overnight)

Director (SFO) / USCIS

630 Sansome Street

San Francisco, CA 94111

ROBIN BARRETT

(via Fedex/Overnight)

Section Chief (SFO) / USCIS

630 Sansome Street

San Francisco, CA 94111

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in Belmont, California on **02/01/2008**.

IRAJ SHAHROK, ESQ.